IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Crl.MC.No. 3380 of 2007()

AGAINST THE ORDER DATED 25/09/2007 IN CMP 1606/07 IN CC.82/2006 of JUDICIAL FIRST CLASS MAGISTRATE'S COURT V, NEYYATTINKARA.

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PETITIONER: PETITIONER/COMPLAINANT:

VINCENT B., THUPPASSIKUDI PURAIDOM, VIZHINJAM P.O., VIZHINJAM VILLAGE, THIRUVANANTHAPURAM DIST.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS: RESPONDENT/ACCUSED:

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1. **JOSEPH JOFRY, S/O.EDWIN, BEENA COTTAGE, KADINAMKULAM, PUTHUKURICHY PO.,**
2. **BEENA, W/O.JOSEPH JOFRY, BEENA COTTAGE, KADINAMKULAM, PUTHUKURICHY P.O.**
3. **STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C.No. 3380 of 2007

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Dated this the 7th day of November, 2007

ORDER

The petitioner is the complainant in a prosecution under Section 138 of the Negotiable Instrument Act. On an application filed by the accused persons, the learned Magistrate has decided to send the cheque to an expert. Annexure A8 is the order passed by the learned Magistrate.

2. The petitioner has come to this Court now with a prayer to invoke the powers under Section 482 Cr.P.C to set aside the impugned order . The reasons as to why the learned Magistrate has chosen to exercise the discretion under Section 254(2) Cr.P.C is clear in that order. I shall carefully avoid any detailed reference to such reasons or their acceptability as that may prejudice the interest of the parties later on. Suffice it to say that, I do not find any vice vitiating in the impugned order which can persuade me to invoke the powers under Sec.482 Cr.P.C.

3. Normally the interlocutory orders which are passed in the course of the proceedings must wait for their challenge till final disposal of the proceedings. The law frowns upon attempts

to challenge the interlocutory orders during pendency of the proceedings. This policy of the law is clearly reflected in Sec.397(2) Cr.P.C. The impugned order is an interlocutory order. It must normally wait for its challenge until the final order is passed. If necessary, then the petitioner can challenge the impugned order also. I find no reason to interfere with the impugned order at this stage. Challenge if any, against the impugned order can be raised along with the challenge, if any, against the judgment to be passed in the prosecution by the learned Magistrate.

4. In the result this Crl.M.C. is dismissed. I may hasten to observe that I have not intended to express any final opinion on the disputed questions which were considered in the impugned order. I make it clear that the petitioner's right to challenge the impugned order, if necessary, along with the final order shall remain unfettered by the dismissal of this Crl.M.C.

(R.BASANT, JUDGE)

sj